

Senate Bill No. 1542

Passed the Senate August 30, 2006

Secretary of the Senate

Passed the Assembly August 28, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 9954 to the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1542, Migden. Vehicles: key information access.

(1) Existing law imposes various requirements upon manufacturers of motor vehicles sold or leased in this state with regard to disclosing information and providing equipment. A violation of the laws regulating motor vehicles is a crime.

This bill would require a motor vehicle manufacturer of a new motor vehicle sold or leased in this state on or after January 1, 2008, except as specified, to provide a means whereby the registered owner of that motor vehicle or a family member, through a registered locksmith, can access information, and only that information, that is necessary to permit the production of a replacement key or other functionally similar device, by a registered locksmith, that will allow the registered vehicle's owner or family member to enter, start, and operate the vehicle. The bill would require a vehicle manufacturer to retain and make the information available for at least 25 years from the date of manufacture. The bill would exempt a make that sold fewer than 2,500 vehicles in the prior calendar year in the state from this requirement. The bill would exempt, until January 1, 2013, a vehicle line of a motor vehicle manufacturer that sold between 2,500 and 5,000 vehicles in the prior calendar year from this requirement.

This bill would require the registered locksmith to follow certain identity and vehicle verification procedures before he or she could request the information from the manufacturer, to turn over certain information to the registered owner or family member, and to destroy all information accessed from the manufacturer after completing the reproduction of the key or other functionally similar device. A manufacturer would be required to make this information available by telephone or electronically 24 hours a day and 7 days a week and to retain this information for at least 25 years from the date of manufacture. A

manufacturer would also be required to include a security process to verify the identity of the registered locksmith.

Since a violation of the bill's requirements would be a crime, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) There are over 28 million registered motor vehicles in California, and those vehicles are an essential part of California residents' work and mobility.

(b) A key or functionally similar device that will allow a registered vehicle's owner to enter, start, and operate his or her vehicle is a critical and necessary part of motor vehicle ownership, without which a person cannot perform the basic functions of gaining entry to a motor vehicle or starting its engine.

(c) It is the intent of the Legislature, in enacting this act, to give motorists better access to this necessary information, while at the same time protecting the security of that information and the vehicle. This act is intended to allow appropriate vehicle security while providing essential and necessary consumer access.

SEC. 2. Section 9954 is added to the Vehicle Code, to read:

9954. (a) This section applies only to new vehicles sold or leased in this state on or after January 1, 2008, except as provided in subdivision (d) or (e).

(b) A motor vehicle manufacturer of a motor vehicle sold or leased in this state shall provide the means whereby the registered owner of that motor vehicle, through a registered locksmith, can access the information, and only that information, that is necessary to permit the production of a replacement key or other functionally similar device by the registered locksmith that

will allow the registered vehicle's owner to enter, start, and operate his or her vehicle. The means to access this information shall be available by telephone or electronically 24 hours a day and seven days a week, as follows:

(1) When a registered locksmith is requested by the motor vehicle's registered owner or the registered owner's family member, to produce a replacement key or other functionally similar device that will allow the vehicle to be entered, started, and operated, and the information is needed from the vehicle manufacturer in order to produce the requested key or other functionally similar device, in addition to the requirement in Section 466.6 of the Penal Code, the registered locksmith shall visually verify the identity of the requesting party through that party's driver's license; shall visually verify that the registration of the vehicle matches the requesting party's identity and address (or last name and address if the requesting party is a family member of the registered owner); and shall visually verify that the vehicle identification number of the vehicle matches with the vehicle identification number on the registration. Upon satisfactory verification of all three requirements, the registered locksmith shall sign an affidavit that he or she has visually verified the information and file the affidavit along with, and for the same time period as, the work order required by Section 466.6 of the Penal Code, and proceed to access the needed information from the vehicle manufacturer.

(2) Upon completing the services, the registered locksmith shall give any key code information obtained from the vehicle manufacturer to the registered owner, or if applicable, the owner's family member, and shall destroy all information accessed from the vehicle manufacturer in his or her possession.

(3) Except in cases of fraud or misappropriation, a registered locksmith who follows these procedures shall incur no liability for theft of the vehicle related to the locksmith's production of a replacement key or functionally similar device that will allow the vehicle to be entered, started, and operated.

(4) When a vehicle manufacturer receives a request from a registered locksmith for information to enable the locksmith to produce a replacement key or other functionally similar device that will allow the vehicle to be entered, started, and operated, and that request is made at the behest of the vehicle's registered

owner or the registered owner's family member, the vehicle manufacturer shall require the registered locksmith to confirm the locksmith's registration with the manufacturer's registry; provide the security password issued by the manufacturer; and comply with any other reasonable authentication procedure. The manufacturer shall also require the registered locksmith to confirm the locksmith's visual identity and vehicle verifications, pursuant to paragraph (1). Upon satisfactory verification of these requirements, and upon presentation of the vehicle identification number and model number, the vehicle manufacturer shall provide to the registered locksmith, for the vehicle identified by the vehicle identification number and model number, the information necessary to enable production of a replacement key or other functionally similar device that allows the vehicle to be entered, started, and operated.

(5) A motor vehicle manufacturer subject to this section shall retain and make the information available in accordance with this section for at least 25 years from the date of manufacture.

(6) A vehicle manufacturer that follows these procedures shall incur no liability for theft of the vehicle related to furnishing the information to a registered locksmith for the production of a replacement key or functionally similar device that will allow the vehicle to be entered, started, and operated.

(c) For purposes of this section the following definitions apply:

(1) "Information" includes, but is not limited to, the vehicle's key code and, if applicable, immobilizer or access code, and its successor technology and terminology.

(2) "Motor vehicle" is a passenger vehicle as defined in Section 465 and pickup truck as defined in Section 471, and does not include a housecar, a motorcycle, or other two-wheeled motor vehicle.

(3) A "registered locksmith" means a locksmith licensed and bonded in California that has registered with a motor vehicle manufacturer, and has been issued a registry number and security password by the manufacturer.

(4) A registered owner, as defined in Section 505, also includes a lessee of the vehicle when the lessee's name appears on the vehicle registration.

(d) (1) This section does not apply to a vehicle line of a motor vehicle manufacturer that on January 1, 2006, does not provide for the production of a replacement key or other functionally similar device that allows the vehicle to be entered, started, and operated, by anyone other than the vehicle manufacturer itself and only itself, provided that the vehicle manufacturer operates a telephone or electronic request line 24 hours a day and seven days a week, and upon a request of the registered owner or family member of the registered owner of the vehicle, a replacement key or other functionally similar device that will allow the vehicle to be entered, started, and operated, is furnished to the registered owner at a reasonable cost within one day of the request or via the next overnight delivery.

(2) If subsequent to January 1, 2008, a vehicle line of the manufacturer exempted by this subdivision provides for the production of a replacement by anyone, other than the vehicle manufacturer itself, of a key or other functionally similar device that will allow the vehicle to be entered, started, and operated, this section shall apply to that vehicle line.

(3) This subdivision shall remain operative until January 1, 2013, and as of that date shall become inoperative, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

(e) (1) This section does not apply to a vehicle line of a motor vehicle manufacturer that sold between 2,500 and 5,000 vehicles of that line in the prior calendar year in the state.

(2) This subdivision shall remain operative until January 1, 2013, and as of that date shall become inoperative, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

(f) This section shall not apply to a make that sold fewer than 2,500 vehicles in the prior calendar year in the state.

(g) The duties imposed on a manufacturer pursuant to this section may be performed either by the manufacturer or by an agent through a contract.

(h) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2006

Governor